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11 [Proposed] Attorneys for Debtors and
 12 Debtors in Possession

13 **UNITED STATES BANKRUPTCY COURT**

14 **DISTRICT OF NEVADA**

15 In re:

16 Case No.: BK-S-09-14814-LBR
 (Jointly Administered)

17 THE RHODES COMPANIES, LLC, aka
 "Rhodes Homes," et al.¹

18 Chapter 11

19 Debtors.

20 Affects:

21 Hearing Date: June 5, 2009

22 All Debtors

23 Hearing Time: 1:30 p.m.

24 Affects the following Debtor(s)

25 Courtroom 1

26 ¹ The Debtors in these cases, along with their case numbers are: Heritage Land Company, LLC (Case No. 09-
 27 14778); The Rhodes Companies, LLC (Case No. 09-14814); Tribes Holdings, LLC (Case No. 09-14817); Apache
 28 Framing, LLC (Case No. 09-14818); Geronimo Plumbing LLC (Case No. 09-14820); Gung-Ho Concrete LLC (Case
 No. 09-14822); Bravo, Inc. (Case No. 09-14825); Elkhorn Partners, A Nevada Limited Partnership (Case No. 09-
 14828); Six Feathers Holdings, LLC (Case No. 09-14833); Elkhorn Investments, Inc. (Case No. 09-14837); Jarupa,
 LLC (Case No. 09-14839); Rhodes Realty, Inc. (Case No. 09-14841); C & J Holdings, Inc. (Case No. 09-14843);
 Rhodes Ranch General Partnership (Case No. 09-14844); Rhodes Design and Development Corporation (Case No.
 09-14846); Parcel 20, LLC (Case No. 09-14848); Tuscany Acquisitions IV, LLC (Case No. 09-14849); Tuscany
 Acquisitions III, LLC (Case No. 09-14850); Tuscany Acquisitions II, LLC (Case No. 09-14852); Tuscany
 Acquisitions, LLC (Case No. 09-14853); Rhodes Ranch Golf Country Club, LLC (Case No. 09-14854); Overflow,
 LP (Case No. 09-14856); Wallboard, LP (Case No. 09-14858); Jackknife, LP (Case No. 09-14860); Batcave, LP
 (Case No. 09-14861); Chalkline, LP (Case No. 09-14862); Glynda, LP (Case No. 09-14865); Tick, LP (Case No.
 09-14866); Rhodes Arizona Properties, LLC (Case No. 09-14868); Rhodes Homes Arizona, L.L.C. (Case No. 09-
 14882); Tuscany Golf Country Club, LLC (Case No. 09-14884); and Pinnacle Grading, LLC (Case No. 09-14887).

**APPLICATION FOR ORDER UNDER SECTIONS 327(a) OF THE BANKRUPTCY
CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF SULLIVAN
GROUP REAL ESTATE ADVISORS AS MARKET RESEARCH CONSULTANT TO
THE DEBTORS AND DEBTORS IN POSSESSION *NUNC PRO TUNC* TO THE
PETITION DATE**

The above-captioned debtors and debtors in possession (the “Debtors”) hereby apply for an Order under § 327(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2014, 2016, and 5002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), authorizing the employment and retention of Sullivan Group Real Estate Advisors (“Sullivan”) as market research consultant in these chapter 11 cases *nunc pro tunc* to the Petition Date, as defined below (the “Application”). In support of this Application, the Debtors rely on the *Declaration Of Timothy Sullivan In Support of Application For Order Under Section 327(a) Of The Bankruptcy Code Authorizing The Employment And Retention Of Sullivan Group Real Estate Advisors As Market Research Consultant To The Debtors And Debtors In Possession Nunc Pro Tunc To The Petition Date* (the “Sullivan Declaration”), which is being submitted concurrently with the Application. In further support of the Application, the Debtors respectfully represent as follows:

I.

Background

1. The Court has jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Application is properly in this District pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief sought herein are section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a).

2. On March 31, 2009, the above-captioned Debtors (the "Primary Filers") except Tuscany Golf Country Club, LLC, Pinnacle Grading, LLC, and Rhodes Homes Arizona, LLC (the "Secondary Filers") filed voluntary petitions for relief under chapter 11 of title 11 of the Bankruptcy Code. On April 1, 2009, the Secondary Filers filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. All references to Petition Date herein shall mean March 31, 2009 for the Primary Filers or April 1, 2009 for the Secondary Filers, as applicable. The Debtors are continuing in possession of their property and are operating and managing their

1 businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy
2 Code.

3 3. The factual background relating to the Debtors' commencement of these cases is
4 set forth in detail in the *Declaration of James M. Rhodes in Support of First Day Motions*
5 [Heritage docket number 34] filed previously with the Court.

II.

Relief Requested

8 By this Application, the Debtors seek to employ and retain Sullivan as their market
9 research consultant in connection with these chapter 11 cases pursuant to Bankruptcy Code §
10 327(a), and Bankruptcy Rules 2014 and 2016, and to obtain approval of the terms under which
11 Sullivan will be compensated pursuant to the terms set forth in this Application, *nunc pro tunc* to
12 the Petition Date.

III.

Basis for Relief

Under § 327(a) of the Bankruptcy Code, a trustee, debtor in possession and committee appointed under § 1102 of the Bankruptcy Code may employ one or more professionals, that do not hold or represent an interest adverse to the estate and that are disinterested persons, to assist such parties in carrying out their duties under the Bankruptcy Code.

19 Specifically, § 327(a) of the Bankruptcy Code provides that a debtor, subject to Court
20 approval:

21 may employ one or more attorneys, accountants, appraisers,
22 auctioneers, or other professional persons, that do not hold or
23 represent an interest adverse to the estate, and that are disinterested
persons, to represent or assist the [debtor] in carrying out the
[debtor's] duties under this title.

24 11 U.S.C. § 327(a). Bankruptcy Rule 2014 requires that an application for retention include:

25 [S]pecific facts showing the necessity for the employment, the
26 name of the [firm] to be employed, the reasons for the selection,
27 the professional services to be rendered, any proposed arrangement
28 for compensation, and, to the best of the applicant's knowledge, all
of the [firm's] connections with the debtor, creditors, any other
party in interest, their respective attorneys and accountants, the
United States Trustee, or any person employed in the office of the
United States Trustee.

1 Fed. R. Bankr. Proc. 2014.

2 **A. Engagement Letter**

3 Sullivan began providing services to the Debtors on or about March 31, 2009 pursuant to
 4 the engagement letter dated March 31, 2009, (the “Engagement Letter”), a copy of which is
 5 attached to the Sullivan Declaration as Exhibit 1.² Pursuant to the Engagement Letter, the
 6 Debtors have engaged Sullivan to provide market research services to the Debtors during these
 7 chapter 11 cases as further described below.

8 **B. Qualifications**

9 Sullivan provides in-depth analytical reports and strategic planning services related to
 10 existing and proposed residential and commercial development throughout the United States.
 11 Sullivan offers a wide range of residential advisory services, allowing its clients – whether
 12 lenders, developers, public agencies or homebuilders – to make critical business decisions about
 13 land uses, product, pricing and maximizing profitability. Market analyses include feasibility
 14 studies, competitive review, product definition (unit sizes and configuration), economic and
 15 demographic trends, definition of amenity programs and buyer profile analysis. In 2008,
 16 Sullivan conducted 280 different market analyses with work taking place in 24 different states
 17 and 45 metropolitan areas. Sullivan is headquartered in San Diego, California and specializes in
 18 real property located in the southwestern United States, including Las Vegas.

19 **C. Services To Be Rendered**

20 The Debtors have determined in their business judgment that it is necessary and in the
 21 best interests of the Debtors’ estates to retain Sullivan as market research consultant effective as
 22 of the Petition Date to provide the following services, which Sullivan will perform at the
 23 direction and discretion of the Debtors:

24 a. Conduct market research for purposes of determining the future revenues
 25 of the Debtors’ over 8,000 homes and lots;

26 b. Assess the competitive market relative to residential assets;

28 ² The summary descriptions provided herein are qualified in their entirety by the terms of the attached Engagement
 Letter.

- 1 c. Estimate absorption rates of lot sales related to residential assets;
- 2 d. Determine logical pricing for residential assets;
- 3 e. Provide litigation support as needed to the Debtors in connection with
- 4 residential asset valuation; and
- 5 f. Provide other services that the Debtors may request.

6 The Debtors believe, pursuant to their business judgment, that Sullivan is well situated to
7 act as market research consultant in the most efficient and cost-effective manner available to the
8 Debtors, and that its retention of Sullivan as market research consultant will provide efficiency
9 that will directly inure to the benefit of the Debtors' estates and creditors. Sullivan's services are
10 complementary to those of Acceleron Group, LLC ("Acceleron"), which the Debtors are seeking
11 to employ as valuation advisors. As valuation advisors, Acceleron will be performing the
12 valuation modelling. Valuation models consist fundamentally of projecting future revenues and
13 expenses to determine future net cash flows, and discounting the future cash flows to present
14 value. In addition to creating the valuation models themselves, Acceleron also will be projecting
15 the expense side of the projections. Because of its market research and real estate expertise to
16 determine which homes and lots will be built out and sold over what time period and at what
17 price, Sullivan will be projecting the revenue side of the projections. Sullivan's services for the
18 Debtors are essential to the valuation process, which is crucial to providing the financial
19 information and evidence necessary for plan confirmation. As a result, Sullivan's retention by
20 the estates is necessary to enable the Debtors to execute their duties as debtors in possession,
21 including maximizing value to their creditors.

D. Compensation

23 Sullivan shall apply to this Court for allowance of its compensation, including keeping
24 time records, and reimbursement of reasonable expenses incurred in connection with this
25 engagement, including, without limitation, travel, transportation and lodging expenses, as well as
26 other customary expenditures in accordance with the applicable provisions of the Bankruptcy
27 Code, the Bankruptcy Rules, and the Local Rules and orders of this Court for all services
28 performed and expenses incurred after the Petition Date. Sullivan will charge the Debtors rates

1 consistent with the rates it charges its clients and in other bankruptcy and non-bankruptcy cases.
 2 The hourly rates for the professionals working on these cases is as follows: Principal - \$425;
 3 Vice President - \$225; Senior Analyst - \$150; and Analyst - \$95.

4 Prior to the Petition Date, Sullivan received a retainer (the "Retainer") in these cases in
 5 the amount of \$47,500. During the twelve months prior to the Petition Date, Sullivan received
 6 \$72,179³ from the Debtors, including the Retainer. The Debtors do not owe Sullivan any monies
 7 as of the Petition Date. Sullivan is currently holding a Retainer in the amount of \$47,500.

8 Sullivan will file monthly and quarterly fee applications pursuant to any orders of the
 9 Court approving procedures for interim compensation, and shall file a final fee application as
 10 required by the Local Rules and orders of this Court. The Debtors and Sullivan understand that
 11 the Office of the United States Trustee shall retain the right to object to Sullivan's interim and
 12 final fee applications.

13 **E. Conflicts**

14 To the best of the Debtors' knowledge, and except as disclosed in the Sullivan
 15 Declaration filed in support of this Application, Sullivan has no connection or relationship with
 16 any employee at the Office of the U.S. Trustee.

17 To the best of the Debtors' knowledge, except as otherwise disclosed in the Sullivan
 18 Declaration, Sullivan has not represented the Debtors' creditors, equity security holders, or any
 19 other parties in interest, or their respective attorneys, in any matter relating to the Debtors or their
 20 estates.

21 To the best of the Debtors' knowledge and based upon the Sullivan Declaration, neither
 22 Sullivan nor any of its partners or other professionals is a creditor, equity security holder, or an
 23 "insider" of the Debtors as that term is defined in section 101(31) of the Bankruptcy Code.

24 To the best of the Debtors' knowledge and based upon the Sullivan Declaration, neither
 25 Sullivan nor any of its partners or other professionals is or was, within two years before the date
 26 of the filing of the petition, a director, officer, or employee of the Debtors.

27
 28 ³ Sullivan performed prepetition market research consulting unrelated to this engagement for The Rhodes
 Companies, LLC and Rhodes Homes Arizona, LLC.

1 To the best of the Debtors' knowledge and based upon the Sullivan Declaration, neither
2 Sullivan nor any of its partners or other professionals has any interest materially adverse to the
3 interest of the estates or of any class of creditors or equity security holders, by reason of any
4 direct or indirect relationship to, connection with, or interest in, the Debtors or for any other
5 reason. Accordingly, Sullivan and its partners and other professionals are "disinterested
6 persons" as that term is defined and used in sections 101(14) and 327 of the Bankruptcy Code.

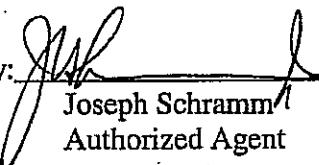
7 Due to the nature of the services to be performed and the qualifications of Sullivan, the
8 Debtors believe that it is appropriate and in the best interest of the estates that the Court approve
9 Sullivan's employment as set forth in this Application.

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1 WHEREFORE, based on the facts and disclosures above, the Debtors respectfully
2 request: (i) the authority to employ and retain Sullivan as its market research consultant *nunc*
3 *pro tunc* to the Petition Date, (ii) that the Court approve the terms of employment set forth in this
4 Application, pursuant to the provisions of Bankruptcy Code § 327(a) and Bankruptcy Rule 2014,
5 and (iii) that the Court grant such other and further relief as is just and proper.

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7 Dated: May 11, 2009
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By: 

Joseph Schramm
Authorized Agent

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